

Excerpt of the minutes from the December 10, 2020 daytime Council meeting

H.1.c Short Term Rental Business License Appeal for 906 Fairfield Road

Council received a report dated December 2, 2020 from the City Clerk regarding the Short Term Business License Appeal for 906 Fairfield Road. The City Clerk and Mayor outlined the appeal process policy.

Council discussed the following:

- *Upholding of inspector's findings*
- *How the unit presents as a home*
- *Potential conversion of unit and utilities*

Moved By Councillor Potts

Seconded By Mayor Helps

That staff report back on the ability to convert the unit into a rental space specific to the installation of a kitchen and stove.

Councillor Dubow withdrew from the meeting at 3:20 p.m.

Amendment:

Moved By Mayor Helps

Seconded By Councillor Thornton-Joe

That staff report back on the ability to convert the unit into a rental space specific to the installation of a kitchen and stove **and that the matter be adjourned until the report back is received.**

CARRIED UNANIMOUSLY

On the main motion as amended:

That staff report back on the ability to convert the unit into a rental space specific to the installation of a kitchen and stove and that the matter be adjourned until the report back is received.

CARRIED UNANIMOUSLY



Council Report

For the Meeting December 10, 2020

To: Council **Date:** December 2, 2020
From: Chris Coates, City Clerk
Subject: Short Term Rental Business License Appeal for 906 Fairfield Road

RECOMMENDATION

That Council receive this report for information and either uphold or overturn the Licence Inspector's denial of a business licence for the short-term rental unit at 906 Fairfield Road.

EXECUTIVE SUMMARY

This report presents documents from an Appellant and the City's Licence Inspector for Council's consideration under the Short-term Business Licence Appeal Process Policy.

The Short-term Rental Regulation Bylaw establishes a short-term rental business licence and fee, eligibility for short-term rental business licence, the Licence Inspector's authority to refuse a licence, conditions for refusing a licence, operating requirements, offences, and penalties. The Bylaw is attached as Appendix A.

Each year short-term rental operators apply for a short-term rental business licence and a Licence Inspector determines whether to issue a licence or not. If an application is not compliant with the City's requirements for short-term rental units, a Licence Inspector may deny a business licence. In this instance, the Licence Inspector notifies the applicant of this decision and advises them how to seek Council's reconsideration as established under section 60(5) of the Community Charter. The City Clerk's Office coordinates the appeal process.

The Short-term Business Licence Appeal Process Policy contains for a process for an Appellant to seek an opportunity to be heard by Council for a denied business licence in accordance with the Community Charter, section 60(5). The Policy is attached as Appendix B. This policy establishes terms and conditions for reconsideration by Council, required documentation to submit as a part of the appeal process, next steps following Council's decision, and other matters.

The Policy establishes the following process:

1. An applicant may start an appeal by submitting a request to the City Clerk
2. The City Clerk replies to an Appellant to acknowledge the request
3. An Appellant makes a written submission (Appendix C)
4. The Licence Inspector makes a written submission in response to the Appellant (Appendix D)

5. An Appellant may also make a written submission in response to the Licence Inspectors reasons for denial of the License. The Appellant did not submit a final response to the Licence Inspector.
6. Once this process is complete, the City Clerk's Office informs the Appellant and Licence Inspector of the date that Council will consider the appeal
7. The City Clerk's Office consolidates these documents and submits them to Council for Council to determine whether the License Inspector's denial of the License is upheld or overturned.

Council's role is to review this information and to either grant or deny an appeal. Denying an appeal means a Licence Inspector will not issue a short-term rental business licence. Granting an appeal means that the Licence Inspector will issue a short-term rental business licence as soon as practicable.

In this instance the operator at 906 Fairfield Road of a short-term rental unit was denied a license and has exercised the Community Charter right to have council reconsider the matter. The submissions of both the operator and the License Inspector are attached as appendices as noted above.

Respectfully submitted,

Chris Coates
City Clerk

Report accepted and recommended by the City Manager

Attachments

Appendix A: Short-Term Rental Regulation Bylaw
Appendix B: Short-term Rental Business Licence Appeal Process Policy
Appendix C: Appellant's Submission
Appendix D: Licence Inspector's Response to Appellant's Submission
Appendix E: Licence Inspector's Report Submission

SHORT-TERM RENTAL REGULATION BYLAW
A BYLAW OF THE CITY OF VICTORIA

The purposes of this Bylaw are to provide for the regulation of short-term rentals including vacation rentals in operators' principal residences where permitted under the Zoning Regulation Bylaw No. 80-159 and where permitted pursuant to section 528 of the *Local Government Act*.

Contents

1	Title
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11	Commencement

Pursuant to its statutory powers, including section 8(6) of the *Community Charter*, the Council of The Corporation of the City of Victoria, in an open meeting assembled, enacts the following provisions:

Title

- 1 This Bylaw may be cited as the "Short-Term Rental Regulation Bylaw".

Definitions

- 2 In this Bylaw

"operator" means a person who rents out, or offers for rent, any premises for short-term rental but does not include a person who acts as an intermediary between the short-term rental tenant and the person who receives the rent;

"principal residence" means the usual place where an individual makes their home;

"responsible person" means a person designated by the operator as the primary contact under section 6.

"short-term rental" means the renting of a dwelling, or any part of it, for a period of less than 30 days and includes vacation rentals;

"strata corporation", "strata council", and "strata lot" have the same meaning as in the *Strata Property Act*.

Licence Required

- 3
 - (1) A person must not carry on business as a short-term rental operator unless the person holds a valid licence issued under the provisions of this Bylaw and the Business Licence Bylaw.
 - (2) A person applying for the issuance or renewal of a licence to operate a short-term rental must, in addition to meeting the requirements of the Business Licence Bylaw:
 - (a) make an application to the Licence Inspector on the form provided for that purpose;
 - (b) pay to the City the applicable licence fee prescribed under subsection (3);
 - (c) provide, in the form satisfactory to the Licence Inspector, evidence that:
 - (i) the person owns the premises where the short-term rental will be offered, or
 - (ii) the owner of the premises where the short-term rental will be offered has consented to their use as a short-term rental;
 - (d) if the premises where the short-term rental will be offered are located within a strata lot, provide a letter from the strata council confirming that provision of short-term rental does not contradict any bylaws of the strata corporation or applicable provisions of the Strata Property Act; and
 - (e) provide, in the form satisfactory to the Licence Inspector,
 - (i) evidence that the premises where the short-term rental will be offered are occupied by the operator as their principal residence; or
 - (ii) provide the name and contact information for the responsible person in relation to the short-term rental premises.
 - (3) The licence fee for purposes of subsection (2)(b) is:
 - (a) \$150 where the short-term rental is offered in the operator's principal residence; or
 - (b) \$1,500 for all short-term rentals that do not qualify under paragraph (a).

Power to Refuse a Licence

- 4 The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,
 - (a) the applicant has failed to comply with section 3; or
 - (b) the short-term rental operation would contravene a City bylaw or another enactment.

Licence Number to be Included in Advertising

- 5 A person may offer to rent premises for rent as a short-term rental only if a valid business licence number is included in any advertising, listing, or promotion material that is intended to communicate availability of the premises for short-term rental.

Responsible Person

- 6 (1) A person may only operate a short-term rental in premises other than their principal residence if they designated a responsible person who, at all times that the short-term rental is operated, has access to the premises and authority to make decisions in relation to the premises and the rental agreement.
- (2) A person may only operate a short-term rental if they ensures that the name and contact information of the responsible person is prominently displayed in the short-term rental premises at all times when the short-term rental is operated.
- (3) The operator may be the responsible person except when subsection (5) applies.
- (4) The responsible person must be able to attend at the short-term rental premises within two hours of being requested to do so.
- (5) If a person who operates a short-term rental in their principal residence is going to be away during the term of the short-term rental, they must designate a responsible person and comply with this section.

Offences

- 7 (1) A person commits an offence and is subject to the penalties imposed by this Bylaw, the Ticket Bylaw and the Offence Act if that person
- (a) contravenes a provision of this Bylaw;
 - (b) consents to, allows, or permits an act or thing to be done contrary to this Bylaw; or
 - (c) neglects or refrains from doing anything required be a provision of this Bylaw.
- (2) Each instance that a contravention of a provision of this Bylaw occurs and each day that a contravention continues shall constitute a separate offence.

Penalties

- 8 A person found guilty of an offence under this Bylaw is subject to a fine of not less than \$100.00 and not more than \$10,000.00 for every instance that an offence occurs or each day that it continues.

Severability

- 9 If any provision or part of this Bylaw is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, it shall be severed from the Bylaw and the balance of the Bylaw, or its application in any circumstances, shall not be affected and shall continue to be in full force and effect.

Transition Provisions

- 10 (1) In the calendar year that this bylaw is adopted only, the fee payable under section 3 shall be prorated by 1/12 for each month in that year prior to the adoption of this bylaw, including the month the bylaw is adopted.
- (2) Any operator who, at the time of adoption of this bylaw, holds a valid licence for a short-term rental under the Business Licence Bylaw shall be credited with amount paid for that licence towards the fee payable under section 3.

Commencement

- 11 This bylaw comes into force on adoption.

READ A FIRST TIME the **22nd** day of **February** 2018

READ A SECOND TIME the **22nd** day of **February** 2018

READ A THIRD TIME the **22nd** day of **February** 2018

ADOPTED on the **8th** day of **March** 2018

“CHRIS COATES”
CITY CLERK

“LISA HELPS”
MAYOR



COUNCIL POLICY

No.1

Page 1 of 2

SUBJECT:	Short-Term Rental Business Licence Appeal Process Policy	
PREPARED BY:	Monika Fedyczkowska	
AUTHORIZED BY:	Council	
EFFECTIVE DATE:	April 23, 2020	REVISION DATE:
REVIEW FREQUENCY:	Every 3 years	

A. PURPOSE

The purpose of the Short-Term Rental Business Licence Appeal Process Policy [the Policy] is to establish a process for applicants for short-term rental business licences to have Council reconsider a Licence Inspector's decision to reject their application in accordance with section 60 of the Community Charter.

B. DEFINITIONS

Appellant means "an applicant for a short term rental business licence who is appealing a decision by a Licence Inspector to Council"

City Clerk means "the City Clerk and delegates"

Council means "the Council of the City of Victoria"

Short-term Rental Business Licence means "a business licence established under the Short-term Rental Regulation Bylaw"

C. POLICY STATEMENTS

Under the Community Charter, section 60(5), if a municipal officer or employee exercises authority to grant, refuse, suspend, or cancel a business licence, the applicant or licence holder who is subject to the decision is entitled to have Council reconsider the matter.

Applicants must apply for a new short-term rental business licence each year.

D. PROCEDURES

1. Appeal Procedure

- a. An Appellant may start an appeal by submitting a request for an appeal to the City Clerk within 30 days after receiving notice from a Licence Inspector of a decision to reject the short-term rental business licence.
- b. The City Clerk must reply to the Appellant to acknowledge the request for an appeal and explain the appeal process.
- c. An Appellant must make a written submission to the City Clerk within 14 days. A written submission may include:
 - i. Reasons that Council should grant the appeal to issue a short-term rental business licence
 - ii. Any supporting documents

- d. A Licence Inspector must submit a document to the City Clerk responding to the Appellant's written submission. The Licence Inspector's document must include:
 - i. Reasons for refusing to issue a short-term rental business licence
 - ii. Any supporting documents
- e. An Appellant must provide a written submission in response to a Licence Inspector's response to the City Clerk within 7 days
- f. A Licence Inspector must prepare a report for Council that includes:
 - i. Reference(s) to relevant City Bylaw provisions
 - ii. Direction to Council on what they should/should not consider, and
 - iii. The following documents:
 - 1. The Appellant's business licence application
 - 2. The letter from a Licence Inspector giving notice of refusal to issue a business licence
 - 3. The Appellant's request to the City Clerk to appeal the refusal
 - 4. The City Clerk's acknowledgment of the request
 - 5. The Appellant's written submission and any supporting documents
 - 6. The Licence Inspector's written response and any supporting documents
 - 7. The Appellant's written response to the Licence Inspector's response
- g. The City Clerk will inform the Appellant of the date that Council will consider the appeal.

2. Council's Decision

- a. Council may grant or deny an appeal by a majority vote.
- b. Council will provide reasons for a decision, which may be accomplished by way of the rationale by Council members during deliberation preceding a vote if not included specifically in the motion of Council.
- c. If Council grants an appeal, a Licence Inspector must issue the relevant business licence as soon as practicable.
- d. If Council denies an appeal, an Appellant may not make a new business licence application for a business for 3 months, unless Council unanimously votes to allow an Appellant to apply for a short-term rental business licence sooner than 3 months.

E. REVISION HISTORY

Christine Havelka

Subject: FW: 906 Fairfield - License Inspector response to appeal

From: Nadia Tatlow <
Sent: August 3, 2020 9:15 PM
To: Christine Havelka <chavelka@victoria.ca>
Cc:
Subject: Re: 906 Fairfield - License Inspector response to appeal

Hello Christine,

We would like to appeal this.

Airbnb's definition of 'kitchenette' and 'private suite' and the categories that we have to choose from/select in order to advertise on their website appear not to NOT have been designed in consultation with City of Victoria's new interpretation.

Our short term rental is in fact a room in our house, in accordance with the zoning of our 1889 heritage home--the upstairs is in fact a master bedroom.

Please advise on the next steps.

Thank you,

Nadia Tatlow
(250) 216-0019
nadiatatlow@gmail.com

On Thu, Jul 30, 2020 at 3:06 PM Christine Havelka <chavelka@victoria.ca> wrote:

Good afternoon,

Attached is the response from Bylaw Services to your appeal for your Business Licence for a Short Term Rental, that was denied.

In keeping with the attached appeal policy, please respond by **August 4, 2020** if you would like to make a final submission in support of your appeal.

After that date, Bylaw Services will compile all the documentation and bring a report to Council's Committee of the Whole meeting where Council will consider your appeal. When a date for that meeting has been determined, we will advise you and provide you with the report.

At this time of the COVID pandemic, public access is not permitted open Council meetings, but meetings are webcast and can be watched at www.victoria.ca

Best regards,

Christine Havelka

Deputy City Clerk / Manager of Legislative Services

Legislative Services

City of Victoria

1 Centennial Square, Victoria BC V8W 1P6

T 250.361.0346 **C** 250.532.2394



Christine Havelka

Subject: FW: 1031193 Application Follow-Up - 906 Fairfield
Attachments: Short-Term Rental Business Licence Appeal Process Policy (1).pdf

From: Nadia Tatlow <
Sent: June 19, 2020 11:42 AM
To: str@victoria.ca
Cc: James M <
Subject: Re: 1031193 Application Follow-Up

Hi Celine,

Can you please introduce me to the legislative services team?

We need to move this forward as I have not heard anything for almost 4 months now.

Thank you

On Jun 15, 2020, at 9:43 AM, Nadia Tatlow <> wrote:

Thanks Celine.

I spoke to Kim on the phone right after we received the rejection letter so that was my last communication with your team. She was going to start the appeal process and be in touch (that was back in Feb).

Let me know if you're able to get an update on that -- we would like to get this sorted as soon as possible.

Thank you!

Nadia Tatlow

On Mon, Jun 15, 2020 at 8:38 AM str@victoria.ca <str@victoria.ca> wrote:

Hi Nadia and James,

Kim is out of the office today, but has there been any further correspondence with regards to your account? Last I can see is that the rejection letter was issued. As the appeal process goes through Legislative Services, I would not know what step you are at, but I don't believe any appeals have been completed as of yet.

Please advise and I will be happy to look into it.

Thank you,

Celine Kobenter

Bylaw Coordinator, Bylaw and Licensing Services

Legislative and Regulatory Services Department

City of Victoria

1 Centennial Square, Victoria BC V8W 1P6

TEL 250.361.0726 FAX 250.361.0205

From: Nadia Tatlow <

Sent: June 13, 2020 2:04 PM

To: str@victoria.ca; James M <

Subject: Re: 1031193 Application Follow-Up

Hi Kim,

Hope you are well.

We are still waiting for our business license to be issued.

Has there been any progress?

Thanks,

On Feb 3, 2020, at 11:31 AM, Nadia Tatlow < wrote:

Hi Kim,

We've received your letter and we were very surprised!

Our Airbnb is not a self-contained suite, it is a master bedroom/bathroom in our primary residence. It is not appropriate or equipped for long-term rental.

What are our next steps to ensure your team understands this?

Thank you,

Nadia Tatlow

From: "str@victoria.ca" <str@victoria.ca>

Date: January 31, 2020 at 11:53:24 AM PST

To: "jlmccracken87@gmail.com"

<jlmccracken87@gmail.com>

Subject: 1031193 Application Follow-Up

January 31, 2020

James McCracken

Nadia Tatlow

906 Fairfield Rd

Victoria BC V8V 3S5

Re: 906 Fairfield Avenue

The City has completed a review of your short-term rental licence application for the property located at 906 Fairfield Ave.

Your 2020 application has been rejected due to non-compliance with City bylaws, including Schedule D of the Zoning Regulation Bylaw, which provides that a short-term rental cannot occupy an entire self-contained dwelling unit, except occasionally while the operator is away.

You are directed to cease offering and operating short-term rental at the above referenced property immediately. Please be aware that operating a short-term rental in contravention of City bylaws is subject to a fine of not less than \$100.00 and not more than \$10,000.00 for every instance that an offence occurs or each day that it continues.

If you choose to convert your rental to long term (30 days plus) a short-term rental licence is not required. If you elect this option, please apply for a property business licence.

<https://www.victoria.ca/EN/main/business/permits-licences/business-licences.html>

You may appeal the decision to deny your short-term rental licence to City Council by submitting a written request to appeal within 30 days of the date of this letter to the City Clerk at 1 Centennial Square.

If you have any questions, contact our office at 250.361.0726.

Regards,

Kim Ferris
Bylaw Officer/Business Licence Inspector
Legislative & Regulatory Services Department
City of Victoria
1 Centennial Square, Victoria B.C. V8W 1P6



July 27, 2020

McCracken, James
Tatlow, Nadia
906 Fairfield Rd
Victoria BC V8V 3S5

Legislative and
Regulatory Services
Department

Bylaw and Licensing
Services Division

1 Centennial Square
Victoria BC V8W 1P6

Re: Short-Term Rental Business Licence Appeal – 906 Fairfield Rd

Your 2020 application was rejected due to non-compliance with City bylaws, including Schedule D of the Zoning Regulation Bylaw, which provides that a short-term rental cannot occupy an entire self-contained dwelling unit, except occasionally while the operator is away.

Per Schedule A of the Zoning Bylaw:

“Self-contained Dwelling Unit” means a suite of rooms in a building designed for occupancy of one family which has a separate entrance, kitchen and bathroom facilities.

You advertise the unit as “[...] luxuriously appointed guest suite. Featuring a pleasant private entranceway through a tranquil garden, the suite’s slanted ceilings lend character to the open-plan space.”, as shown in the attached copy of the description of your AirBnb listing.

You also advertise a kitchenette (attached).

We consider a kitchen to be a place to prepare food. The removal of kitchen items does not qualify you to offer a self-contained dwelling unit.

An inspection conducted on January 30 confirmed these findings. For these reasons, your 2020 application for a short-term rental business licence was rejected.

A handwritten signature in black ink, appearing to read "Kim Ferris".

Regards,

Kim Ferris
Bylaw Officer/Business Licence Inspector
Legislative & Regulatory Services Department
City of Victoria
1 Centennial Square, Victoria B.C. V8W 1P6

To Contact

Telephone: **250.361.0726**
E-Mail: **str@victoria.ca**

Fax: **250.361.0205**
Web: **www.victoria.ca**

plus

Downtown Modern Heritage with Spa Bathroom



2 guests 1 bedroom 1 bed 1 bath



"A luxurious Victorian heritage home experience awaits!
We love the character updates and spa bathroom"

plus
ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews
<https://www.airbnb.ca/?logos=1>

\$31 /night

Check availability

2 guests 1 bedroom 1 bed 1 bath

Luxuriate in the swish spa bathroom with claw-foot tub and steam shower in this luxuriously appointed guest suite. Featuring a pleasant private entranceway though a tranquil garden, the suite's slanted ceilings lend character to the open-plan space.



"A luxurious Victorian heritage home experience awaits! We love the character updates and spa bathroom featuring marble from a local quarry. We hope you love it as much as we do!"

Hosted by James

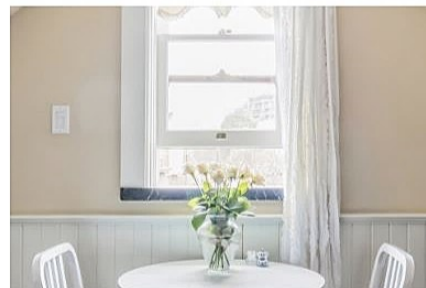
Tour this guest suite



Living room



Bedroom - Queen bed



Kitchenette



Full bathroom

Explore all 17 photos



ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms

Living room

Indoor fireplace, Netflix



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night [Check availability](#)

View all rooms



Bedroom

Queen bed, Indoor fireplace, Netflix

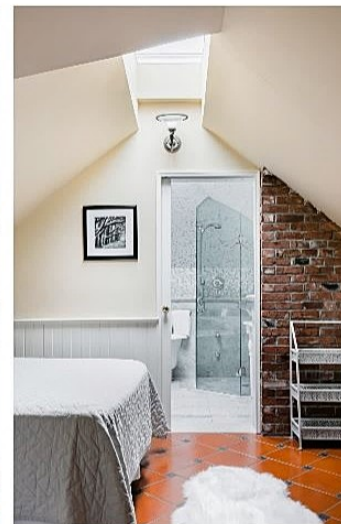


plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night Check availability

View all rooms

Kitchenette

Mini fridge, Coffee

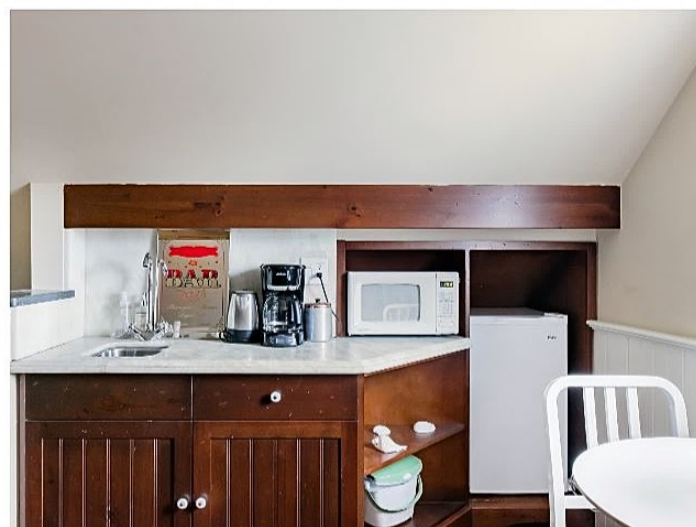


plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



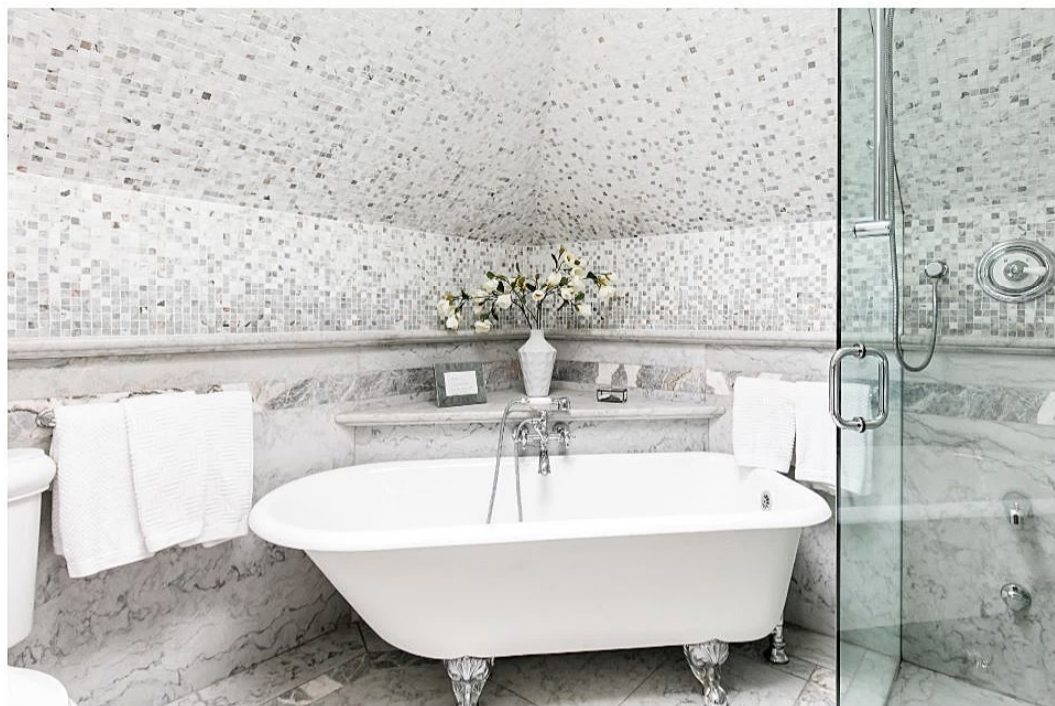
Full bathroom

Heated floors, Walk-in shower, Soaking tub, Steam shower

View all rooms

Full bathroom

Heated floors, Walk-in shower, Soaking tub, Steam shower



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



 **plus** ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night [Check availability](#)

Business Licence (Short-term Rental) Appeal re 906 Fairfield Road

Submission of the Licence Inspector

I. Introduction

1. This is an appeal from the decision of the Licence Inspector to refuse to issue a business licence to Nadia Tatlow and James McCracken for the operation of a short-term rental at 906 Fairfield Rd.
2. The business licence was denied pursuant to section 4(b) of the *Short-term Rental Regulation Bylaw*, which states:
 4. *The Licence Inspector may refuse to issue a licence for a short-term rental if, in the opinion of the Licence Inspector,*
...
(b) the short-term rental operation would contravene a City bylaw or another enactment.
5. The appeal is brought pursuant to section 60(5) of the *Community Charter*, which requires that an applicant for a business licence has the right to have a staff decision to refuse such licence reconsidered by Council.
6. On a reconsideration such as this, Council can apply its own judgment and may either uphold the decision to refuse the licence or grant the licence.

II. Facts

7. The appellants own the property at 906 Fairfield Road. The property is zoned R1-S2 (restricted small lot). Short-term rentals are not a permitted use under this zone.
8. The owners of the property have created a self-contained unit in the attic of the property. This work was done without a permit by previous owners. [See attached photos]
9. The attic suite consists of a living room/bedroom, a separate bathroom and a kitchenette/dining area. It has a separate entrance from outside with keypad for self-entry. There is an interior staircase with a locked door separating the suite and the rest of the house, and there is no access provided for guests to the remainder of the house. [See attached photos]
10. The kitchenette area includes a counter with cabinets, a sink, small fridge, a microwave oven, a coffee maker, a kettle, and other essentials. [See attached photos]
11. The appellant has rented the entire unit as a short-term rental since at least June 2017. Since that time, the appellant has accepted over 306 short-term rental bookings, with stays as short

as 2 days. Attached is a report from Host Compliance detailing information about the short-term rental activity at the property.

12. The appellants applied for and received a business licence to operate a short-term rental in 2018 and 2019. The licence was granted on the basis of the appellants' representation that the short-term rental was offered in the appellants' principal residence.
13. An inspection of the premises on January 30th, 2020 revealed that the unit is operating as a self-contained dwelling and is not part of the appellants' principal residence.
14. On January 31st, 2020, the Licence Inspector advised the appellant that his application for a short-term rental licence has been refused because short-term rental of a self-contained dwelling did not comply with applicable zoning.

III. Relevant Regulations

15. The City regulates short-term rentals through the *Short-term Rental Regulation Bylaw* and through provisions of the zoning bylaws. In relation to the property, the relevant zoning bylaw is the *Zoning Regulation Bylaw*, which states, in part:

17 ...

(4) *Without limiting the generality of subsection (1), short-term rentals, whether as a principal or accessory use, are prohibited in all zones except*

(a) *where they are expressly permitted subject to regulation applicable in those zones;*

(b) *rental of no more than two bedrooms in a self-contained dwelling unit, as home occupation, provided that:*

(i) *the self-contained dwelling unit is occupied by the operator of the short-term rental; and*

(ii) *short-term rental complies with all regulations in Schedule D as if it were a transient accommodation.*

16. A self-contained dwelling unit is defined in the *Zoning Regulation Bylaw* as "a suite of rooms in a building designed for occupancy of one family which has a separate entrance, and kitchen and bathroom facilities." A kitchen is not defined in the bylaw. However, the Oxford English Dictionary defines "kitchen" as "a room where food is prepared and cooked".

IV. Argument

17. When short-term regulations were initially introduced, the City was flooded with applications of business licences. In an effort to encourage compliance with regulations, these applications were processed very quickly and were not always fully screened. More careful reviews and

inspections have been conducted as part of 2020 application process. Therefore, the fact that the appellant was issued a short-term rental business licence in 2018 and 2019 is not an indication that a 2020 licence should also be issued.

18. Although the appellants reside in the house at 906 Fairfield Road, the premises that are rented as a short-term rental are not part of their principal dwelling unit because the unit is being offered and advertised as an independent self-contained dwelling unit. The appellant advertises the unit as 'luxuriously appointed guest suite, featuring a private entranceway' on Airbnb. [Matched Airbnb Property Listing Attached]
19. It is clear that the attic suite at 906 Fairfield Road is being offered as a self-contained dwelling unit: it has its own entrance from outside, a kitchenette with space to prepare and cook food, and separate bathroom – it meets the requirements of the definition of "self-contained dwelling unit" in the *Zoning Regulation Bylaw*.
20. The appellants appears to rely on the absence of a full kitchen; however, the unit has been prepared to operate independently as a self-contained suite with no access to the appellants' dwelling unit, and not as two bedrooms in their principal dwelling unit, as required by Schedule D of the *Zoning Regulation Bylaw*.
21. For all these reasons, the Licence Inspector submits that the appellant's application for a short-term rental business licence had to be refused as it contravened the *Zoning Regulation Bylaw*.
22. One of the objectives of the City's regulations of the short-term rentals was to address the problem of self-contained dwelling units being diverted from the housing market to a vacation rental market. This is the rationale behind the provisions of the zoning bylaw which limit short-term rentals to bedrooms within self-contained units rather than entire self-contained units.
23. The property at 906 Fairfield Road is an example of a self-contained dwelling unit that has been lost to the regular housing market in the past, contrary to the intent behind City regulations, which prohibit rental of entire self-contained dwelling units as short-term rentals.
24. Therefore, the Licence Inspector submits that this appeal should be dismissed and the decision to refuse a short-term rental business licence for 906 Fairfield Road upheld.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated: November 25, 2020



Shannon Perkins, Manager of
Bylaw Services

Rental Unit Record

906 Fairfield Road, Victoria, BC, Canada

Removed X
Identified ✓
Compliant X

PRINT

Listing(s) Information

VRBO - 321.1102334.1650495	Flipkey - 8821207	Airbnb - 18510487
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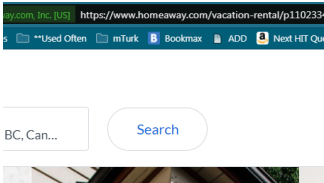


Matched Details

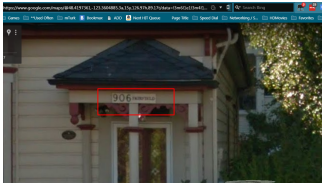
Analyst CDZT

Explanation
Exterior matches in street view. The Victoria BC records and map confirm the location and address and show Area-Jurisdiction-Roll 01-234-03-199-019.
<http://prntscr.com/k23uj9>

Listing Photos



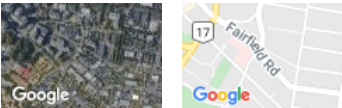
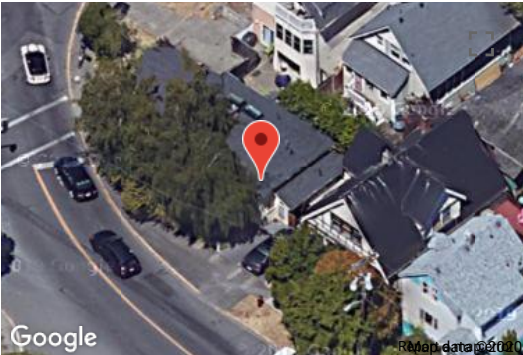
Matching 3rd Party Sources



Same exterior. #906 is visible on the photo and in street view.

City Name Match

Rental Unit Information



Identified Address
906 Fairfield Road, Victoria, BC, Canada

Identified Unit Number
None

Identified Latitude, Longitude
48.419616, -123.360192

Parcel Number
0123403199019

Owner Address
906 Fairfield Rd, Victoria
Victoria, BC V8V 3S5, CA

Timeline of Activity
View the series of events and documentation pertaining to this property

- X Listing air18510487 Removed September 6th, 2020
- Listing air18510487 Reposted April 8th, 2020
- X Listing air18510487 Removed

Listing Details

Listing URL	— https://www.vrbo.com/1102334
Listing Status	● Inactive
Host Compliance Listing ID	— hma321.1102334.1650495
Listing Title	— Downtown Victoria - Modern Luxury Heritage
Property type	— House
Room type	— Entire home/apt
Listing Info Last Captured	— Dec 23, 2018
Screenshot Last Captured	— Dec 26, 2018
Price	— \$91/night
Cleaning Fee	— \$75

Information Provided on Listing

Contact Name	— Not provided
Latitude, Longitude	— 48.420363, -123.358805
Minimum Stay (# of Nights)	— 2
Max Sleeping Capacity (# of People)	— 2
Max Number of People per Bedroom	— 2.0
Number of Reviews	— 4
Last Documented Stay	— 07/2018

Listing Screenshot History

 [View Latest Listing Screenshot](#)



























August 0

September 0










October 0

April 2nd, 2020

-  2 Documented Stays
March, 2020
-  5 Documented Stays
February, 2020
- Listing air18510487 Reposted
February 10th, 2020
- ✕ Listing air18510487 Removed
February 7th, 2020
-  6 Documented Stays
January, 2020
-  12 Documented Stays
December, 2019
-  9 Documented Stays
November, 2019
-  12 Documented Stays
October, 2019
-  11 Documented Stays
September, 2019
- Listing air18510487 Reposted
September 8th, 2019
- ✕ Listing air18510487 Removed
September 8th, 2019
- Listing air18510487 Reposted
September 5th, 2019
- ✕ Listing air18510487 Removed
September 5th, 2019
- Listing air18510487 Reposted
September 3rd, 2019
- ✕ Listing air18510487 Removed
September 2nd, 2019
-  16 Documented Stays
August, 2019
- Listing air18510487 Reposted
August 30th, 2019
- ✕ Listing air18510487 Removed
August 30th, 2019
- Listing air18510487 Reposted
August 24th, 2019
- ✕ Listing air18510487 Removed
August 24th, 2019
- Listing air18510487 Reposted
August 16th, 2019
- ✕ Listing air18510487 Removed
August 15th, 2019
-  13 Documented Stays
July, 2019
-  12 Documented Stays
June, 2019
-  8 Documented Stays
May, 2019
-  9 Documented Stays

- April, 2019
-  8 Documented Stays
March, 2019
 -  9 Documented Stays
February, 2019
 -  8 Documented Stays
January, 2019
 -  9 Documented Stays
December, 2018
 -  Listing hma321.1102334.1650495 Removed
December 27th, 2018
 -  Listing fli8821207 Identified
November 28th, 2018
 -  5 Documented Stays
November, 2018
 -  11 Documented Stays
October, 2018
 -  12 Documented Stays
September, 2018
 -  12 Documented Stays
August, 2018
 -  10 Documented Stays
July, 2018
 -  Listing hma321.1102334.1650495 Identified
July 10th, 2018
 -  Listing air18510487 Identified
July 10th, 2018
 -  7 Documented Stays
June, 2018
 -  10 Documented Stays
May, 2018
 -  11 Documented Stays
April, 2018
 -  Listing fli8821207 Removed
April 25th, 2018
 -  8 Documented Stays
March, 2018
 -  Listing hma321.1102334.1650495 Reposted
March 2nd, 2018
 -  8 Documented Stays
February, 2018
 -  Listing hma321.1102334.1650495 Removed
February 20th, 2018
 -  6 Documented Stays
January, 2018
 -  5 Documented Stays
December, 2017
 -  8 Documented Stays
November, 2017
 -  8 Documented Stays
October, 2017
 -  7 Documented Stays

September, 2017

-  12 Documented Stays
August, 2017
-  Listing fli8821207 First Crawled
August 4th, 2017
-  Listing fli8821207 First Activity
August 4th, 2017
-  Listing air18510487 First Crawled
August 1st, 2017
-  13 Documented Stays
July, 2017
-  4 Documented Stays
June, 2017
-  Listing hma321.1102334.1650495 First
Crawled
June 23rd, 2017
-  Listing hma321.1102334.1650495 First
Activity
June 23rd, 2017
-  Listing air18510487 First Activity
June 16th, 2017

plus

Downtown Modern Heritage with Spa Bathroom



TAKE A TOUR

2 guests 1 bedroom 1 bed 1 bath



"A luxurious Victorian heritage home experience awaits!
We love the character updates and spa bathroom"

plus
ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews
<https://www.airbnb.ca/?logos=1>

\$31 /night

Check availability

2 guests 1 bedroom 1 bed 1 bath

Luxuriate in the swish spa bathroom with claw-foot tub and steam shower in this luxuriously appointed guest suite. Featuring a pleasant private entranceway though a tranquil garden, the suite's slanted ceilings lend character to the open-plan space.



"A luxurious Victorian heritage home experience awaits! We love the character updates and spa bathroom featuring marble from a local quarry. We hope you love it as much as we do!"

Hosted by James

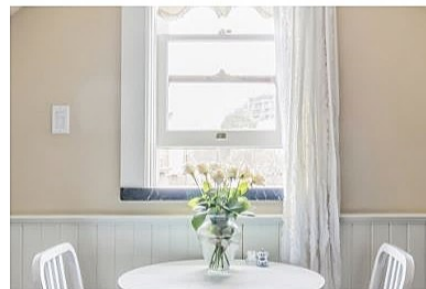
Tour this guest suite



Living room



Bedroom · Queen bed



Kitchenette



Full bathroom

Explore all 17 photos



ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms

Living room

Indoor fireplace, Netflix



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night [Check availability](#)

View all rooms



Bedroom

Queen bed, Indoor fireplace, Netflix

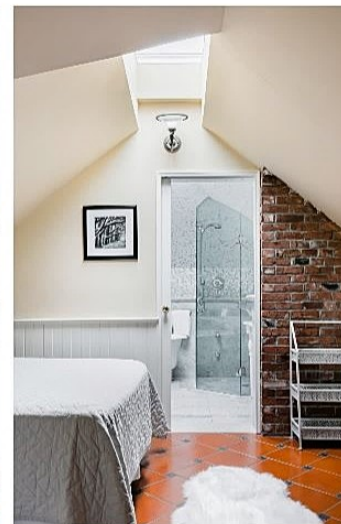


plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night Check availability

View all rooms

Kitchenette

Mini fridge, Coffee

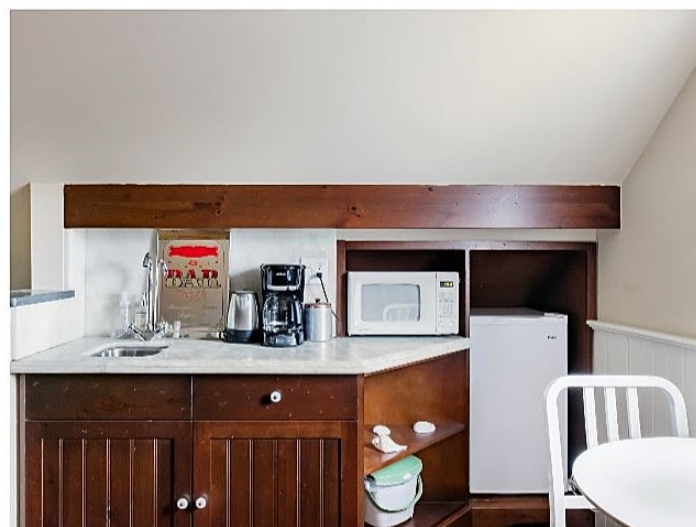


plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



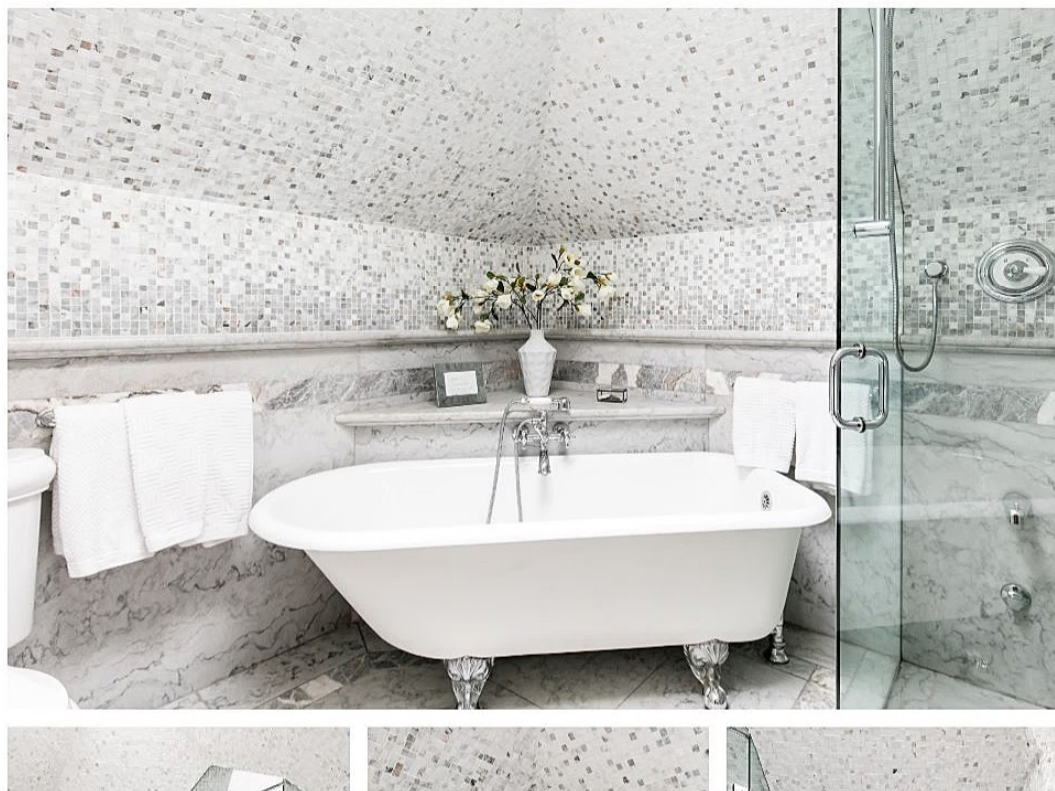
Full bathroom

Heated floors, Walk-in shower, Soaking tub, Steam shower

View all rooms

Full bathroom

Heated floors, Walk-in shower, Soaking tub, Steam shower



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews

\$31 /night

Check availability

View all rooms



plus ENTIRE GUEST SUITE IN VICTORIA
★ 4.87 293 reviews


\$31 /night [Check availability](#)



TIME STAMP



January 30, 2020 1:50 PM

TIME STAMP 

906 FAIRFIELD



January 30, 2020 1:50 PM

TIME STAMP 



January 30, 2020 1:52 PM

TIME STAMP



January 30, 2020 1:52 PM

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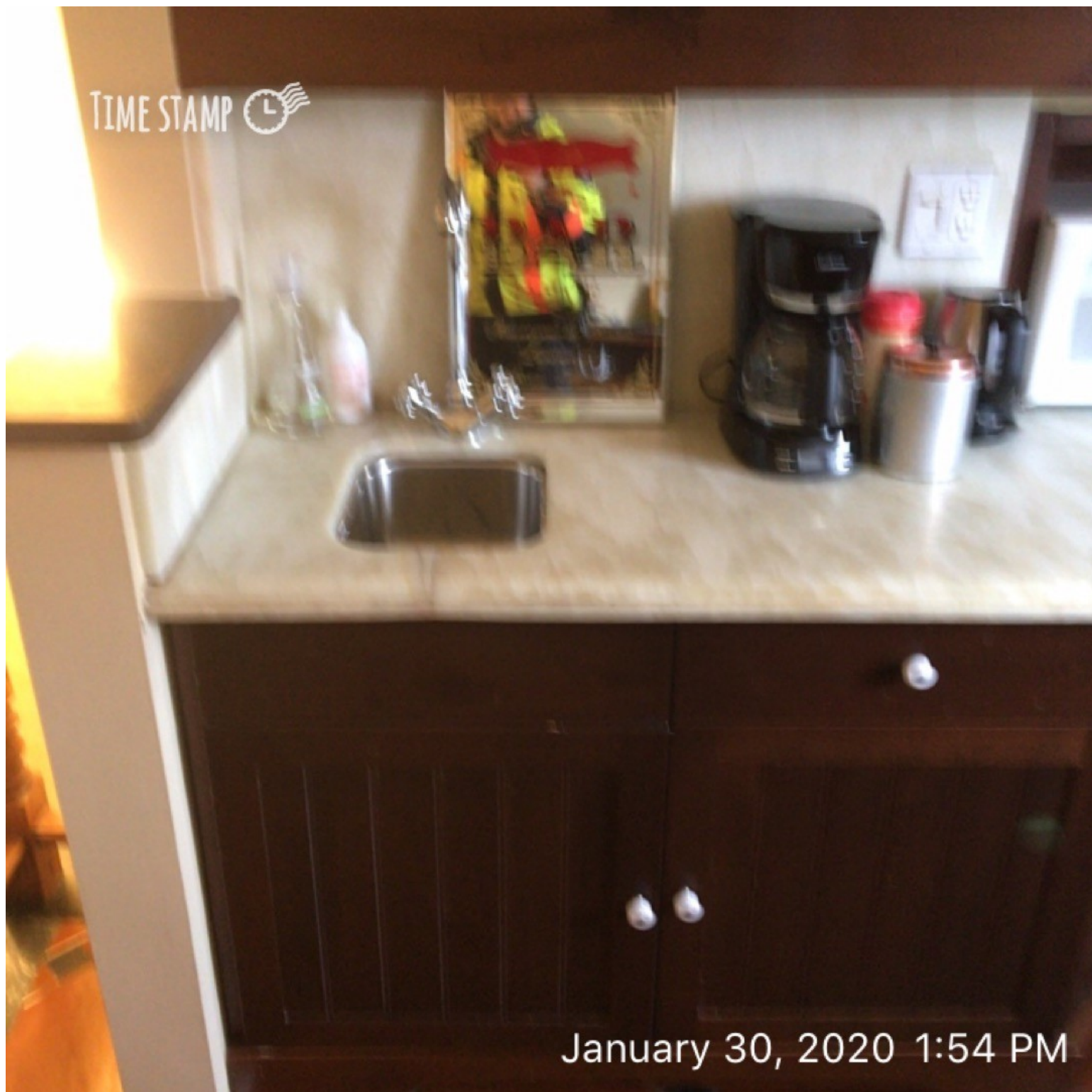
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